

## 5 – OFFENSES

Compilation Number	Ordinance Number	Subject
5-1	[Repealed]	
5-2	[Repealed]	
5-3	[Repealed]	
5-4	<b>1187 as amended by 1618, 1624 &amp; 2008</b>	<b>Peddlers</b>
5-5	[Repealed]	
5-6	[Repealed]	
5-7	[Repealed]	
5-8	[Repealed]	
5-9	[Repealed by 2338]	
5-10	<b>1638 as amended by 1751, 2008, 2153 &amp; 2180</b>	<b>Animal Control</b>
5-11	[Repealed by 2338]	
5-12	[Repealed]	
5-13	[Repealed]	
5-14	<b>1900 as amended by 1909, 1938, 2192, 2196, 2274 and 2312</b>	<b>Municipal Violations</b>
5-15	[Repealed]	
5-16	[Repealed]	
5-17	<b>1996</b>	<b>Gambling</b>
5-18	<b>2032</b>	<b>Offenses (Adoption of Oregon Criminal Code)</b>
5-19	<b>2048</b>	<b>Prostitution (Procurement)</b>
5-20	<b>2049</b>	<b>Prostitution (Solicitation)</b>
5-21	<b>2060 as amended by 2083, 2321 and 2342</b>	<b>Park Regulations</b>
5-22	[Repealed by 2285]	
5-23	[Expired]	
5-24	<b>2122</b>	<b>Juvenile Curfew</b>
5-25	<b>2136</b>	<b>Chronic Nuisance Property</b>
5-26	<b>2138</b>	<b>Inventory Searches by Woodburn Police Dept.</b>
5-27	[Repealed by Ord. 2221]	

Compilation Number	Ordinance Number	Subject
5-28	2173	Graffiti Nuisance Property
5-29	2312	Noise Regulations
5-30	2338	Nuisances

## ORDINANCE NO. 1187

AN ORDINANCE DEFINING, REGULATING, AND LICENSING SOLICITORS AND PEDDLERS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING PENALTIES FOR VIOLATIONS OF THIS ORDINANCE.

THE PEOPLE OF THE CITY OF WOODBURN DO ORDAIN:

**Section 1. Permit and License Required.** It shall be unlawful for any person to engage in business as a peddler or solicitor, as defined in this ordinance, within the corporate limits of the city of Woodburn, without first obtaining a license as herein provided.

**Section 2. Definitions.**

(a) Person shall include the singular, plural, firm, corporation, association, partnership, society, or other organization.

(b) Peddler includes any person traveling by any means from place to place, house to house, or street to street offering or exposing goods, wares, merchandise, or services for sale, or making sales, and delivering articles to purchasers.

(c) Solicitor includes any person traveling by any means from place to place, house to house, or street to street taking or attempting to take orders for sale of goods, wares, merchandise, or services for future delivery or to be furnished in the future, regardless of the method of payment.

(d) Exemptions. The terms of this ordinance shall not be held to include the acts of persons selling personal property at wholesale to dealers in such articles, nor to newsboys, nor the acts of local merchants or their employees in delivering goods in the regular course of business, nor shall the terms of this ordinance be held to include or apply to any farmer or truck gardener who shall vend, sell, or dispose of, or offer to sell, vend, or dispose of the products of the farm or garden occupied and cultivated by him within the state of Oregon. Nothing contained in this ordinance shall be held to prohibit any sale required by statute or by order of any court, or to prevent any person from conducting a bona fide auction sale pursuant to law.

(e) Nonprofit organizations, religious organizations, fraternal organizations, civic organizations, and clubs, wishing to canvass for funds, or sell from door to door, to an occupant or occupants of residences, to raise funds to be used solely for the purpose for which the organization or club is created, and from which no individual third party receives a profit, shall, in lieu of all other application and licensing provisions of this ordinance, apply to the council for a permit, which application shall contain such information as the city recorder may require, or is demanded by the council; and the council may, after an investigation as to the purpose of the project and the use to which the funds so raised are to be put, reject the application or approve it and direct the permit be issued. It shall be and is hereby declared to be a violation of this

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ordinance for any person or party to canvass for funds or sales for any such organization or club from door to door of the occupant or occupants of residences until the council has approved the application and the permit has been issued. Such permit shall be issued without charge to the applicant.

### Section 3. Applications.

(a) A person desiring to be licensed under this ordinance must file with the city recorder a sworn application, in writing, on a form to be furnished by the city recorder, which shall give the following information and material:

(1) The name and description of the applicant.

(2) The permanent address of the applicant and, if this is not a local address, the local address, if any, to be used by the applicant.

(3) A brief description of the nature of business and the goods or services to be sold. In the case of products of farms or orchards, a statement whether the produce to be sold is grown by the applicant.

(4) If the applicant is employed, the name and address of the employer, together with credentials establishing an exact relationship.

(5) A photograph or snapshot of the applicant shall have been taken within 60 days immediately prior to the date of the filing of the application, showing the head and shoulders of the applicant in a clear and distinguishing manner.

(6) The fingerprints of the applicant.

(7) The names of at least two reliable persons who will vouch for the applicant's good character and the business he represents.

(b) At the time of filing the application, a fee of \$25.00 shall be paid to the city recorder to cover the cost of investigation. [Subsection (b) as amended by Ordinance No. 1624, passed June 26, 1978.]

### Section 4. Investigation and Issuance.

(a) Upon receipt of an application, the same shall be referred to the chief of police, who shall cause investigation of the applicant's business and moral character to be made as shall be deemed necessary for the protection of the public interest.

(b) The chief of police, within five days from the date of the application, shall endorse the application as "satisfactory" or "unsatisfactory" and, if the same shall be endorsed "unsatisfactory," the reason for such endorsement shall be set forth thereon. If the application is not returned to the city recorder within five days, the endorsement shall be presumed to be "satisfactory."

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(c) Where the application is endorsed "satisfactory," or if five days shall have elapsed without the return of the application by the chief of police, the city recorder shall issue a license card to the applicant for the conduct of the activity for which application was made. Such license shall contain the signature and seal of the issuing officer and shall show the name, address, and photograph or snapshot of the licensee, the kind and goods to be sold thereunder, the date of issuance and the expiration date of the license. The city recorder shall keep a permanent record of all licenses for a period of two years from the date of issuance.

(d) If the application is returned from the chief of police endorsed "unsatisfactory," the city recorder shall notify the applicant that his application has been disapproved and the reasons therefor.

**Section 5. Crew Licenses and Bonds.** In lieu of an application being filed by each solicitor or peddler, the employer of any solicitors or peddlers may file separate applications for each solicitor or peddler employed by him and, upon satisfactory compliance with the requirements of this section and the payment of the license fee prescribed by Section 6 of this ordinance for each member of the crew, a crew license shall be issued to the employer designating the name of the employer and the solicitors or peddlers named in the application; and separate licenses or identification cards may be issued to each solicitor or peddler. The employer may make substitutions of solicitors or peddlers or add additional solicitors or peddlers from time to time within the limits of such crew license, and, upon filing an appropriate application as aforesaid, may have the city recorder transfer such licenses or identification cards from one solicitor or peddler employed by him to another so employed without paying any additional license fee. The city recorder may, in his discretion, in lieu of an investigation and the payment of an application fee, accept a corporate surety bond satisfactory to the city attorney in the sum of \$1,000.00, conditioned upon:

(a) The observance by the applicant of the provisions of Sections 1, 8, 9, 10, 12 and 14 of this ordinance and all laws of the state of Oregon.

(b) The truth of all representations made in connection with the application for a license.

(c) A guarantee that the person named in the bond will return the purchase price of any article or service purchased or ordered to the purchaser or person ordering upon return of the article purchased or relinquishment of the order and upon proof that any false or misleading statement or representation has been made concerning any personal property or any service or any subscription sold or offered for sale to said purchaser or person ordering. In the instance of a crew license, the employer may, instead of filing a separate bond for each peddler or solicitor, file one bond in a sum equal to \$2,000.00.

**Section 6. License Fee.**

(a) All peddlers and solicitors shall pay an annual license fee of \$15.00. Licenses may be renewed on an annual basis upon payment of the license fee.

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(b) All licenses shall run from January 1 to December 31, inclusive. One-half of the annual license fee shall be charged for licenses issued after July 1. [Section 6 as amended by Ordinance No. 1618, passed June 13, 1978.]

**Section 7. Transfer.** No license shall be used at any time by any person other than the one to whom it is issued, unless it shall have been transferred pursuant to Section 5 of this ordinance.

**Section 8. Exhibition of License.** Peddlers and solicitors are required to exhibit their license cards at the request of any citizen.

**Section 9. Posting Premises.** Any resident of the city of Woodburn who wishes to exclude peddlers and solicitors from residence premises occupied by him may place upon or near the usual entrance to such premises a printed placard or sign bearing the words "Peddlers and Solicitors Prohibited," or other similar notice. Such notice shall be reasonably visible with normal eyesight for a distance of four feet. Any peddler or solicitor who goes into or approaches within four feet of such posted notice upon a private residence property in the city of Woodburn that has been duly posted pursuant to this section for the purpose of soliciting orders for the sale of goods, services, wares or merchandise or for the purpose of disposing of or hawking the same shall be in violation of this ordinance.

**Section 10. Duties of Police to Enforce.** It shall be the duty of any police officer of the city of Woodburn to require any person seen peddling or soliciting and who is not known by such officer to be duly licensed to produce his license card and to enforce the provisions of this ordinance against any person found to be violating the same.

**Section 11. Revocation of License.**

(a) Licenses may be revoked by the city recorder, after notice of hearing for any of the following causes:

(1) Fraud or misrepresentation or false statement contained in an application for license.

(2) Fraud or misrepresentation or false statement made in the course of carrying on the business as peddler or solicitor.

(3) Any violation of this ordinance.

(4) Conviction of any crime or misdemeanor involving moral turpitude.

(5) Conducting the business of peddling or soliciting in an unlawful manner or in such a manner as to constitute a menace to the health, safety, or general welfare of the public.

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(b) Notice of hearing for revocation of a license shall be given in writing setting forth the grounds of the complaint and the time and place for hearing. Such notice shall be mailed, postage prepaid, to the licensee at his last known address at least five days prior to the date set for hearing.

**Section 12. Appeal.** Any person aggrieved by the action of the chief of police or the city recorder in denial or revocation of his license shall have the right to appeal to the council of the city or Woodburn. Such appeal shall be taken by filing with the council, within 14 days after notice of the action complained of has been mailed to such person's last known address, a written statement setting forth fully the grounds for the appeal. The council shall set a time and place for the hearing of such appeal and notice of such hearing shall be given to the appellant in the same manner as notice of revocation. The decision and order of the council on such appeal shall be final and conclusive.

**Section 13. Selling by Public Outcry.** Hawking or selling display goods on the public streets in the city of Woodburn by public outcry is hereby specifically prohibited; except that this section shall not apply to special promotional sales when such sales have been requested by or through the chamber of commerce and have been approved by the common council.

**Section 14. Severability.** The provisions of this ordinance are declared to be severable and if any section, sentence, clause, or phrase of this ordinance shall, for any reason, be held to be invalid or unconstitutional, such decision shall not effect the validity of the remaining sections, sentences, clauses, and phrases of this ordinance and they shall remain in effect.

**Section 15. Civil Infraction Assessment.** A violation of any provision of this ordinance constitutes a class 4 civil infraction and shall be dealt with according to the procedures established by Ordinance 1998. [Section 15 as amended by Ordinance 2008, passed October 24, 1988.]

**Section 16. Repealing Clause.** That portion of Section 1, Ordinance No. 892, relating to license fees for "Vending and peddling from house to house except products produced from premises owned or operated by such vendor or peddler" is hereby repealed.

*Passed by the Council and approved by the Mayor February 18, 1969.*

## ORDINANCE NO. 1638

**AN ORDINANCE PROVIDING FOR THE CONTROL OF ANIMALS; PROVIDING FOR LICENSING ANIMALS; AND REPEALING ORDINANCES NO. 1072 AND 1482.****THE PEOPLE OF THE CITY OF WOODBURN DO ORDAIN:**

**Section 1. Definitions.** As used in this ordinance, the following words and phrases, unless the context requires otherwise, shall mean:

(1) Owner. Any person who owns, keeps or harbors an animal, except a veterinarian or an operator of a commercial kennel, insofar as they may keep dogs in the course of their businesses.

(2) Dog license. The license required to be annually issued for each individual dog.

(3) Running at large. An animal is "running at large" when the animal is not on the owner's property or controlled by the use of a leash. The term "running at large" does not include the use of a dog under the supervision of a person to control or protect livestock or in other related agricultural activities or the use of a dog by law enforcement personnel. [Section 1(3) amended by Ordinance No. 2180, passed October 14, 1996.]

(4) Livestock. Cattle, sheep, horses, goats, swine, mules and any fur-bearing animals bred and maintained commercially or otherwise within pens, cages and hutches.

**Section 2. Enforcement.** It shall be the duty of the chief of police or his designate to enforce all provisions of this ordinance. If an animal control officer or police officer is a witness to an offense under this ordinance, he may make a non-custody arrest of the offending person and issue the offending person a citation to appear in the municipal court. If a private party desires to make a non-custody arrest, and if the animal control officer or police officer assisting deems it proper, such officer may issue a citation to appear in the municipal court. In all cases, the animal control officer or police officer shall be allowed to exercise the discretion to issue a warning in lieu of a citation. [Section 2 amended by Ordinance No. 1751, §2, passed June 8, 1981.]

**Section 3. Livestock Not to Run at Large.** No livestock shall be allowed to run at large or be herded or tethered in any of the streets, alleys, parks or public places in the city or be kept, put or grazed upon any lawn or premises without the consent of the owner of such lawn or premises.

**Section 4. Dogs Not to Run at Large.** No owner, keeper or custodian of any dog shall permit the dog to run loose or be at large within the city. Any such dog is declared to be a nuisance. [Section 4 amended by Ordinance No. 1751, §3, passed June 8, 1981.]



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**Section 5. Fowl Not to Run at Large.** No owner, keeper or custodian of any fowl shall permit the fowl to run loose or be at large within the city. Any such fowl is declared to be a nuisance. [Section 5 amended by Ordinance No. 1751, §4, passed June 8, 1981.]

**Section 5A. Dog Waste Matter.** It shall be unlawful for a dog owner to allow a dog, except for seeing eye dogs, to deposit solid waste matter on any property, including any public property or right-of-way, other than that of the dog owner. It shall be a defense to this section if the dog owner immediately removes the solid waste. (Section 5A added by Ordinance 2153)

**Section 6. Tying Animals to Trees.** No person shall tie or fasten any animal to any growing shade or ornamental tree.

**Section 7. Noisy Animals and Fowl.** No person shall keep or maintain within the city any fowl, dog, cat, livestock or other animal which makes or causes to be made any loud or unusual noise which disturbs the peace and quiet of any part of the city or any of the inhabitants of the city. Any such animal or fowl is declared to be a nuisance.

**Section 8. Complaint, Hearing.** When a citation to appear has been filed with the municipal court, the city attorney may, if it appears that an offense has been committed, issue a complaint. The complaint may be verified and sworn to by the city attorney, the animal control officer or a police officer, or a private citizen. Such complaints shall be treated by the court according to the rules of the court. If the person charged in the complaint is found by the municipal judge to be maintaining the nuisance as charged in the complaint, or to be maintaining a nuisance in any manner violating any of the provisions of Sections 4, 5 or 7 of this ordinance, the municipal judge may enter judgment directing the chief of police immediately to abate the nuisance and, as part of such judgment, assess to such person the cost of the action. Such judgment may be in addition to any penalty imposed under Section 40 of this ordinance. [Section 8 amended by Ordinance No. 1751, §5, passed June 8, 1981.]

**Section 9. Abatement of Dog, Cat or Fowl Nuisance.** It is the duty of the chief of police to execute any judgment which may be rendered by the municipal judge in the matter of abating any nuisance as described in Section 8. In the execution of the judgment which requires the chief of police to abate a nuisance caused by a fowl, dog or cat, such animal shall be seized and delivered to the poundmaster with instructions and directions to destroy the animal at the end of five days, unless during that period the owner sells or disposes of the same so that it will be removed from the corporate limits of the city. The chief of police may sell the dog, cat or fowl in the manner provided in the following section for the sale of other animals. [Section 9 amended by Ordinance No. 1751, §6, passed June 8, 1981.]

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**Section 10. Abatement of Horse, Cow or Other Animal Nuisance.** When the municipal judge requires the abatement of a nuisance occasioned by a horse, cow or other animal, the chief of police shall seize such animal and shall cause it to be confined in a place where the annoyance complained of will not be continued. The animal shall be advertised for sale to the highest bidder. The purchaser shall agree to remove it from the city, and the proceeds of the sale shall be applied by the chief of police as follows:

(1) To the payment of any cost which may be incurred by the municipal court in the action for the abatement of the nuisance.

(2) To costs incurred in caring for and in selling the animal.

(3) The surplus, if any, shall be delivered by the chief of police to the owner of the animal seized.

**Section 11. Abatement of Nuisance by Owner.** In addition to the remedy provided in Section 8, 9 and 10, the municipal judge may issue a notice to the person charged with maintaining a nuisance, requiring such person to abate the same within five days from the date of service of notice.

**Section 12. Killing or Molesting Ducks Prohibited.** No person shall kill, injure, take or molest any duck or any duck nest in or upon any waters of the city or upon any land or premises abutting upon or lying near or adjacent to any such waters, except with a written permit issued by the parks director of the city. Provisions of this section do not apply to any person lawfully killing or taking ducks when such person is the legal owner or lawful agent of the owner.

**Section 13. Abatement of Nuisances Caused by Ducks.** When the number or actions of ducks upon any premises, public or private, constitute a nuisance in the judgment of the county health officer or the parks director, such officials have the authority to abate the nuisance by the removal of any or all of the ducks and to require the owner or agent of the owner to remove any duck or ducks creating a nuisance.

**Section 14. Humane Society of the Willamette Valley.** The Humane Society of the Willamette Valley is hereby designated as the official pound for the city of Woodburn for receiving animals from police officers for impounding.

**Section 15. Impoundment by Police.** Police officers are authorized to take up, capture and impound any dog, domestic animal or fowl found running at large or being herded on the streets, alleys, parks or other public places within the city. Any police officer finding an animal running at large may enter upon private property, except a dwelling house, for the purpose of taking up, capturing and impounding such animal.

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**Section 16. Right of Officer to Subdue and/or Destroy.** If a police officer finds that an animal at large threatens the safety of persons or property, he may subdue and capture the animal. In doing so, he may use any dart or other projectile by means of which a tranquilizing drug may be injected into the animal and the propelling force which is approved by the chief of police. In case of immediate danger of harm to himself or other persons or animals, he may destroy the animal.

**Section 17. Notice of Impoundment of Animals or Fowl.** The chief of police shall give immediate notice of the impounding of any animal or fowl under Section 15, with a description thereof, by posting the same in a conspicuous place at the pound. He shall, in the case of horses, mules or cattle, give notice as provided in ORS 607.313

**Section 18. Sale of Impounded Animals.** Except for horses, mules or cattle, any animal or fowl impounded is subject to sale, destruction or other disposition by the Humane Society of the Willamette Valley. An impounded animal may be reclaimed by the owner or person entitled to possession if the prescribed costs are paid within five days of the posting of notice.

### **Dog Control**

**Section 19. Dog Licenses Required.** Any person owning or keeping a dog within the city shall purchase for such dog a license as required under the provisions of ORS 609.100.

**Section 20. Dog Tags on Collar Required.** Any person owning or keeping a dog required to be licensed under Section 19 shall fasten to a collar and keep on such dog at all times a metal tag to be supplied at the time of the issuance of the license.

**Section 21. Vicious Dogs.** No owner shall keep or harbor within the city any dog known by the owner to be a vicious dog. For the purposes of this section, a vicious dog is one which has bitten any person or other domestic animal or which has a known propensity to attack or bite human beings or other domestic animals.

**Section 22. Defenses.** In any prosecution under Section 21, it is an affirmative defense for the defendant to prove the following:

- (1) A person was bitten while trespassing within a dwelling occupied by the dog's owner.
- (2) The person bitten was wrongfully assaulting the dog, the dog's keeper or any member of the household.
- (3) The dog had not bitten a person before and, while upon the property of its owner, bit a person trespassing upon the property who had taunted the dog.
- (4) The dog bit the person by accident.

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**Section 23. Rabies Control; Adoption of State Law.** ORS 433.340 through 433.390, as now or hereafter constituted, are adopted by reference and made a part of this ordinance.

**Section 24. Notice of Impoundment of Dogs.** Whenever any dog is impounded under authority of this ordinance, the chief of police shall give written notice by personal service or by certified mail upon the owner of such dog, if such person is known to the chief of police or if the dog is found to be wearing a collar to which is attached a tag or plate bearing the name and address of the owner. In all other cases, the chief of police shall cause to be posted for five consecutive days at the city pound a notice containing a general description of the impounded dog and designating the date of the expiration and the day upon which the described dog will be killed unless redeemed as authorized by this ordinance. For the purpose of such notice, the description of any dog impounded shall be deemed sufficient if the notice states the color, sex and breed, when the marks or markings are plainly enough distinguishable that the breed can be readily determined.

**Section 25. Hearing Upon Demand of Owner.** When the owner or custodian of any impounded dog files with the chief of police a written notice or demand therefor, before the expiration of the time provided for the killing of such dog, such person shall be entitled to a hearing before the municipal judge upon the question of the rightful impounding of such dog. Upon receipt of the notice, the chief of police shall transit it to the municipal judge, who shall proceed to a trial of the question of the right of the city to impound the dog under the terms of this ordinance. The municipal judge shall enter judgment sustaining the impounding or directing the release of the impounded dog. If the entry of judgment sustains the city in the impounding, the chief of police shall proceed to dispose of the dog in the manner provided by ordinance, at any time after the expiration of five days from the date of the first impounding, unless the owner or custodian pays the fee provided for the release of impounded dogs.

**Section 26. Redemption by Owner.** An impounded dog may be released to the owner or custodian by the pound upon payment to the Humane Society of the Willamette Valley of a sum of money as may be set by contract between the city and the Society.

**Section 27. Redemption by Stranger.** The Humane Society of the Willamette Valley is authorized to deliver to any person any dog impounded under this ordinance after the expiration of five days from the impounding and upon the payment to the Humane Society of the redemption fee prescribed in Section 26. Such delivery shall be subject to the claim of the rightful owner of the dog and the payment by him of the redemption fee paid to the Humane Society prior to the expiration of three days. The Humane Society, at the time of delivery, shall take a written receipt from such person acknowledging that the person holds a dog subject to the claim of the rightful owner upon the payment of the redemption fee.

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**Section 28. Destruction.** If the owner or custodian of a dog impounded under this ordinance does not claim the dog within the period of five days from the date of the notice provided for in Section 24 and pay the redemption fee provided for in Section 26, such dog shall be humanely killed at the expiration of such period.

**Section 29. Records.** The chief of police shall keep a duplicate record describing all dogs impounded under this ordinance which shall show the date and time when impounded, a description by approximate weight, age, color, sex and breed when feasible, with the owner or custodian's name, if the name is known. In the record an entry shall be made of the disposition made of the dog. The duplicate and all delivery receipts shall be filed monthly with the city recorder and be deemed public records of the city.

**Section 30. Expenses Paid From and Fees Paid to General Fund.** The expense of caring for dogs impounded under this ordinance shall be paid out of the general fund of the city, and all monies paid in redemption fees shall be credited to the general fund of the city.

**Section 31. Definitions.** For the purposes of Sections 31 to 38:

(1) "Exotic, wild or dangerous animals" means and includes any animal which, because of its size, vicious nature, poisonous bite or sting, or other characteristics, would constitute a danger to human life or property if now kept or maintained under the immediate control of the owner.

(2) "Exotic, wild or dangerous animal" includes, but is not limited to:

- (a) Any cat other than the *Felis catus*.
- (b) Any nonhuman primate.
- (c) Any wolf, coyote or other canine not of the species *Canis familiaris*.
- (d) Any shark, dogfish or similar carnivorous fish.
- (e) Any piranha fish.
- (f) Any poisonous reptile, any crocodilian or lizard whose average adult length is greater than two feet, any snake whose average adult length is greater than six feet, or any snapping turtle.
- (g) Any bat.
- (h) Any skunk, weasel, badger, fox, mammals of the raccoon family or wolverine.

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**Section 32. Exotic Animals Prohibited.** Except as provided in Sections 33 to 35, no person shall keep or maintain one or more exotic, wild or dangerous animals within the city. The keeping or maintenance of an exotic, wild or dangerous animal is a public nuisance and shall be abated in conformity with the requirements of this ordinance.

**Section 33. Certain Animals Exempt.** Subject to any applicable sections of this ordinance, and any applicable federal or state law in effect at the time of an alleged offense, if an animal is not specifically identified as an exotic, wild or dangerous animal in Section 31, a person may lawfully keep or maintain such animal without an exotic animal license, subject to the provisions of the zoning ordinance, if the animal is:

- (1) Of the species *Felis catus*.
- (2) Of the species *Canis familiaris*.
- (3) A fish kept in a tank.
- (4) A nonpoisonous reptile.
- (5) A gerbil, hamster, guinea pig, mouse, rat, squirrel, chipmunk or similar rodent-like creature kept in a cage.
- (6) An amphibian less than one foot in length such as a frog, toad, salamander or chameleon.
- (7) Livestock, as that term is defined in Section 1.
- (8) A rabbit kept in a cage or hutch.
- (9) Bees kept in a collection of hives or colonies.

**Section 34. Animal Exempt With a License.**

(1) Subject to other applicable sections of this ordinance and any applicable federal or state law in effect at the time of any alleged offense, it shall be lawful for a person to keep or maintain those animals identified below, if the person keeping or maintaining such animal has been issued and has maintained an annual exotic animal license under the requirements of Section 35.

- (2) The following animals are exempt if licensed:
- (a) Any nonhuman primate of a species whose average adult weight is less than 20 pounds.
  - (b) Any cat not of the species *Felis catus*, but of another species whose average adult weight is less than 20 pounds. However, any such cat with a prior history of injury to humans or property shall not be allowed under this section.

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- (c) Any poisonous or stinging insect or arachnid.

**Section 35. Exotic Animal Licensing.**

(1) The city recorder may issue an exotic animal license for the keeping or maintenance of those animals identified in Section 34, for a period of one year, and he may renew the license for subsequent one-year period if it is found by the animal control officer, after inspection of the premises where such animal is to be kept, that:

(a) The animal is at all times kept or maintained in a safe manner and is at all times confined securely so that keeping the animal will not constitute danger to human life or property.

(b) Adequate safeguards are made to prevent unauthorized access to the animal by a member of the public.

(c) The health and well-being of the animal is not in any way endangered by the manner of keeping or confinement.

(d) The keeping of the animal will not harm the surrounding neighborhood or disturb the peace and quiet of the surrounding neighborhood.

(e) The quarters in which the animal is kept or confined are adequately lighted and ventilated and are so constructed that they can be kept in a clean and sanitary condition.

(f) The keeping of the animal will not create or cause offensive odors or in any other way constitute a danger to public health.

(g) The applicant for such a license has proven ability to respond in damages up to, and including, the amount of \$100,000 for bodily injury or death of any person or persons, or for damage to property owned by any other person which may result from the keeping or maintenance of such animal. Such proof of ability to respond in damages may be given by filing with the city recorder a certificate of insurance, stating that the applicant is at the time of his application, and will be during the period of his license, insured against liability for personal and property damages as described in this subpart; or by posting a bond with the city recorder prior to the issuing of the exotic animal license and operative to the time of the license in the amount of \$100,000. The bond or certificate of insurance shall provide that no cancellation of insurance or bond will be made unless 30 days' written notice is first given to the city recorder.

(2) Prior to the annual renewal of an exotic animal license, the animal control officer shall inspect the premises subject to the license to determine if the person to whom it has been issued is continuing to comply with all of the conditions specified in this section. In addition, the animal control officer shall have the authority to inspect the premises upon the receipt of any complaint regarding the maintenance of such

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premises or the animals therein. If the officer determines, during his inspection, that any of the conditions specified in Subsection (1) of this section are being violated, he shall refuse to renew the license or he shall revoke the license unless the violation is corrected within a period of time as he shall direct, not to exceed 30 days.

(3) In addition to the requirements of Subsection (1) of this section, the applicant for an exotic animal license shall pay to the city recorder a fee of \$50.00 for each adult animal to be kept or maintained on the premises subject to the license.

(4) No person shall sell or give away any exotic, wild or dangerous animal to any person not holding an exotic animal license issued and maintained under this section.

(5) In no event shall an exotic animal license be issued or renewed for the keeping of more than two adult exotic wild or dangerous animals in any single location.

**Section 36. Abatement of Exotic, Wild or Dangerous Animal Nuisances.** The chief of police shall execute any judgment which may be rendered by the municipal judge after a hearing as provided in Section 8 in the matter of abating any nuisance described in Section 32 and 34. When the judgment requires the chief of police to abate a nuisance caused by an exotic, wild or dangerous animal, the animal shall be seized and confined so that the annoyance complained of will not be continued. The chief of police shall immediately advertise the animal for sale to the highest bidder. The purchaser of the animal shall agree to remove the same from the corporate limits of the city or to otherwise conform its maintenance to provisions of this ordinance and any applicable state or federal law then in effect. The proceeds of the sale shall be applied by the chief of police as follows:

(1) To the payment of any cost which may be incurred in the municipal court in the matter of the action for abatement of the nuisance.

(2) To the payment of any cost which the chief of police may incur in caring for such animal and in selling the same.

(3) The surplus, if any, shall be delivered by the chief of police to the owner of the animal.

**Section 37. Exceptions to Provisions.** The provisions of Sections 32 to 35 shall not apply to the keeping of exotic, wild or dangerous animals in the following cases:

(1) The keeping of such animals in zoos, bona fide educational or medical institutions, museums or any other place where they are kept as live specimens for the public to view or for the purposes of instruction or study.

(2) The keeping of such animals for exhibition to the public of such animals by a circus, carnival or other exhibit or show.



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**Section 38. Institutions.** The institutions keeping or maintaining exotic, wild or dangerous animals in conformity with Section 37 shall comply with all federal and state regulations regarding such maintenance.

**Section 39. Interference With Officers.** It shall be unlawful for any person to interfere with, molest or harm any police officer in the prosecution of his duties under the terms of this ordinance.

**Section 40. Penalties.**

(1) Violation of Section 21 of this ordinance constitutes a class 2 civil infraction and shall be dealt with according to the procedures established by Ordinance 1998.

(2) Violation of any other provision of this ordinance constitutes a class 5 civil infraction and shall be dealt with according to the procedures established by Ordinance 1998. [Section 40 amended by Ordinance 2008, §9, passed October 24, 1988.]

**Section 41. Severability.** The sections and subsections of this ordinance are severable. The invalidity of any section or subsection shall not affect the validity of the remaining sections and subsections.

**Section 42. Repeal.** Ordinance No. 1072, enacted July 23, 1963, as amended by Ordinance No. 1257, enacted November 3, 1970, and Ordinance No. 1492, enacted September 29, 1975; and Ordinance No. 1482, enacted July 14, 1975, are repealed.

*Passed by the Council July 24, 1978, and approved by the Mayor July 25, 1978.*

## ORDINANCE NO. 1900

AN ORDINANCE DESCRIBING CERTAIN MUNICIPAL VIOLATIONS, PROVIDING PENALTIES, REPEALING ORDINANCE NO. 1887, AND DECLARING AN EMERGENCY.

## THE CITY OF WOODBURN ORDAINS AS FOLLOWS:

**Section 1. Drinking in Public Places.** No person shall drink or consume alcoholic liquor in or on a street, alley, mall, parking lot, or structure, motor vehicle, public grounds or other public place unless the place has been licensed for that purpose by the Oregon Liquor Control Commission.

**Section 2. Public Indecency.** No person shall, while in or in view of a public place, perform an act of urination or defecation, except in toilets provided for that purpose. [Section 2 amended by Ordinance No. 1938, passed February 10, 1986.]

**Section 3.** (Section 3 repealed by Ordinance 2312)

**Section 4. Children Confined in Vehicles.**

(1) No person who has under his control or guidance a child under 10 years of age shall lock or confine, or leave the child unattended, or permit the child to be locked or confined or left unattended in a vehicle for a period of time longer than 15 consecutive minutes.

(2) A peace officer, finding a child confined in violation of subsection (1) shall have the authority to enter the vehicle and remove said child using such force as is reasonably necessary to effect an entrance to the vehicle.

**Section 5. Discharge of Weapons.**

(1) Except at firing ranges approved by the Chief of Police, no person other than a peace officer shall fire or discharge a gun, including spring or air-activated pellet guns, air guns or BB guns, firearm or other weapon which propels a projectile by use of gun powder or other explosive, jet or rocket propulsion.

(2) "Firearm" means a weapon, by whatever name known, which is designed to expel a projectile by the action of powder and which is readily capable of use as a weapon.

(3) Notwithstanding subsection 1 of this section, the City Council may approve or deny applications for the ceremonial discharge of a firearm or firearms when blank ammunition is used. Applications for the ceremonial discharge of firearms shall be made to the Chief of Police according to an administrative procedure established by the Police Department. The denial of an application may be appealed to the City Council. (Section 5 as amended by Ordinance No. 2274, passed November 13, 2000.

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**Section 6. Obstructing a Peace Officer.** No person shall, by use of violence, force, physical interference, or obstacle, intentionally obstruct, impair, or hinder the enforcement of the law by a peace officer acting within the scope of the officer's official authority. [Section 6 added by Ordinance No. 1909, passed February 25, 1985.]

(Sections 7 to 14 reserved for expansion)

**Section 15. Penalties.** A person who violates any section of this ordinance commits a violation punishable by a fine of not more than \$250.00.

**Section 16. Severability.** Each portion of this ordinance shall be deemed severable from any other portion. The unconstitutionality or validity of any portion of this ordinance shall not invalidate the remainder of the ordinance.

**Section 17. Repeal and Saving Clause.**

(1) Ordinance No. 1887 is hereby repealed.

(2) Notwithstanding subsection (1) of this section, Ordinance No. 1887 shall remain valid and in force for the purpose of authorizing the arrest, prosecution, conviction and punishment of a person who violated Ordinance No. 1887 prior to the effective date of this ordinance.

**Section 18.** [Emergency clause.]

*Passed by the Council October 8, 1984, and approved by the Mayor October 9, 1984. Amended by Ordinance 2312 passed April 8, 2002.*

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## ORDINANCE 1996

AN ORDINANCE PROHIBITING AND REGULATING GAMBLING WITHIN THE CITY OF WOODBURN, REPEALING ORDINANCE 1889 AND DECLARING AN EMERGENCY.

## THE CITY OF WOODBURN ORDAINS AS FOLLOWS:

**Section 1. Gambling Prohibited.** Except as provided in this ordinance, gambling is prohibited in the City of Woodburn, pursuant to Ordinance No. 1987 (which adopts the provisions of the Oregon Criminal Code as municipal offenses).

**Section 2. Bingo and Lotto.** Bingo and lotto, when conducted by a charitable, fraternal, or religious organization, pursuant to the provisions of Oregon state law, is permitted in the City of Woodburn.

**Section 3. Social Games.** Social games as defined in ORS 167.117(13)(a) are permitted in the City of Woodburn without a license, but social games as defined in ORS 167.117(13)(b) are prohibited and, if held, constitute gambling in violation of Ordinance No. 1987.

**Section 4. Severability.** Each portion of this ordinance shall be deemed severable from any other portion. The unconstitutionality or invalidity of any portion of this ordinance shall not invalidate the remainder of this ordinance.

**Section 5. Repeal and Saving Clause.**

(1) Ordinance No. 1889, as amended is hereby repealed.

(2) Notwithstanding subsection (1) of this section, Ordinance No. 1889 shall remain valid and in force for the purpose of authorizing the arrest prosecution, conviction and punishment of a person who violated Ordinance No. 1889 prior to the effective date of this ordinance.

**Section 6.** [Emergency clause.]

*Passed by the Council April 25, 1988, and approved by the Mayor April 27, 1988.*

## ORDINANCE NO. 2032

**AN ORDINANCE DESCRIBING MUNICIPAL OFFENSES, PROVIDING PENALTIES, REPEALING ORDINANCE 1987 AND DECLARING AN EMERGENCY.****THE CITY OF WOODBURN ORDAINS AS FOLLOWS:**

**Section 1. Adoption of the Oregon Criminal Code.** The Oregon Criminal code (hereinafter ORS 133.075, ORS Chapter 475, and ORS Chapters 161, 162, 163, 164, 165, 166, and 167, as it is now constituted) is hereby adopted by the City of Woodburn. Provisions of the above-mentioned chapters relating to defenses, burden of proof, general principles of criminal liability, parties, and general principles of justification apply to offenses defined and made punishable by this ordinance.

**Section 2. Violation of code as City Offense.** Violation of any provision adopted in section 1 of this ordinance, except where an offense is classified under state law as a felony or where a court other than a municipal court is vested with exclusive jurisdiction, constitutes a municipal offense against the City of Woodburn.

**Section 3. Jurisdiction of the Municipal Court.** The Woodburn Municipal Judge, pursuant to the Woodburn City Charter, Oregon law and the home rule authority of the City of Woodburn, is given original and exclusive jurisdiction over any alleged violation of this ordinance.

**Section 4 Penalty for Violation.** Upon finding that an offense has been committed under this ordinance, the Woodburn Municipal Judge shall impose a penalty not to exceed the penalty provided by state law as it is now constituted.

**Section 5. Severability.** Each portion of this ordinance shall be deemed severable from any other portion. The unconstitutionality or invalidity of any portion of this ordinance shall not invalidate the remainder of this ordinance.

**Section 6. Repeal and Saving Clause.**

(1) Ordinance 1987, as amended, is hereby repealed.

(2) Notwithstanding subsection (1) of this section, Ordinance No. 1987 shall remain valid and in force for the purpose of authorizing the arrest, prosecution, conviction, and punishment of a person who violated Ordinance No. 1987 prior to the effective date of this ordinance.

**Section 7.** [Emergency clause.]

***Passed by the Council November 13, 1989 and approved by the Mayor November 15, 1989.***

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## ORDINANCE NO. 2048

**AN ORDINANCE PROHIBITING UNLAWFUL PROSTITUTION PROCUREMENT ACTIVITIES AND DECLARING AN EMERGENCY.****THE CITY OF WOODBURN ORDAINS AS FOLLOWS:**

**Section 1. Definitions.** As used in this ordinance, "prostitution" means that unlawful conduct defined in ORS 167.007. As used in this ordinance, "prostitution procurement activity" means any conduct by any person that constitutes a substantial step in furtherance of an act of prostitution. Such activity includes, but is not limited to lingering in or near any street or public place, repeatedly circling an area in a motor vehicle or repeatedly beckoning to, contacting, or attempting to stop pedestrians or motor vehicle operators.

**Section 2. Prostitution Procurement Activity.** It is unlawful for any person to engage in any prostitution procurement activity with an intent to induce, entice, solicit, procure, locate, or contact another person to commit an act of prostitution.

**Section 3. Penalty.** Violation of this ordinance is punishable, upon conviction, by a fine of not more than \$500.00 or by imprisonment not exceeding six months, or both. However, no greater penalty shall be imposed than the penalty prescribed by Oregon statute for the same act or omission.

**Section 4.** [Emergency clause.]

*Passed by the Council November 7, 1990 and approved by the Mayor November 9, 1990.*

## ORDINANCE NO. 2049

**AN ORDINANCE PROHIBITING LOITERING TO SOLICIT PROSTITUTION AND DECLARING AN EMERGENCY.****THE CITY OF WOODBURN ORDAINS AS FOLLOWS:**

**Section 1. Definition of prostitution.** As used in this ordinance, "prostitution" means engaging in, offering to engage in, or agreeing to engage in an act of sexual conduct or sexual contact as those terms are defined in ORS 167.002(4) and (5), with a person not married to the actor, in return for the payment of a fee.

**Section 2. Loitering to solicit prostitution prohibited.** It is unlawful for any person to loiter in or near any street or public place in a manner and under circumstances manifesting the purpose of inducing, enticing, soliciting, or procuring another to commit an act of prostitution. Among the circumstances which may be considered in determining whether such purpose is manifested are that the person repeatedly beckons to, stops or attempts to stop, or engages in conversation, passersby or repeatedly stops or attempts to stop motor vehicle operators by hailing them or gesturing to them.

**Section 3. Penalty for Violation.** Violation of this ordinance is punishable, upon conviction, by a fine of not more than \$500.00, or by imprisonment not exceeding six months, or both. However, no greater penalty shall be imposed than the penalty prescribed by Oregon statute for the same act or omission.

**Section 4.** [Emergency clause.]

*Passed by the Council November 7, 1990 and approved by the Mayor November 9, 1990.*

## ORDINANCE NO. 2060

**AN ORDINANCE RELATING TO THE USE OF PARK AREAS: PROVIDING FOR PENALTIES FOR VIOLATION THEREOF; REPEALING ORDINANCE 1918 AND DECLARING AN EMERGENCY.****THE CITY OF WOODBURN ORDAINS AS FOLLOWS:**

**Section 1. Policy.** The City of Woodburn may develop, construct, improve, operate and maintain park and recreation facilities in a manner which will best afford the public with necessary conveniences and accommodations. In order to protect the health, safety and well-being of the public, and insure the greatest use and benefits from such areas, it is necessary to make regulations and provisions the City Council deems necessary.

**Section 2. Definitions**

- (1) Board. The Woodburn Recreation and Parks Board.
- (2) Council. The Woodburn City Council.
- (3) Director. The person hired by the City of Woodburn who is in charge of the City Recreation and Parks Department of the City of Woodburn or his designee.
- (4) Park Area. A City Park, wayside area, community rest areas, scenic or historical areas, public park open spaces and greenbelt areas.
- (5) Park Employee. Any employee of the City of Woodburn Recreation and Parks Department.
- (6) Person. A natural person, firm, partnership, association, or corporation.

**Section 3. General Rules and Regulations.** The general rules and regulations for City of Woodburn Parks shall be as follows:

(1) Fires in park areas:

No person shall build a fire in any park area unless said fire is confined to:

- (a) Park camp stoves or fireplaces.
- (b) Portions of parks designated as permitting fires.
- (c) Portable stoves in established picnic areas and designated where fires are permitted.
- (d) No fire shall be left unattended, and every fire shall be extinguished before its user leaves the park area.



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(2) No person in a park area shall hunt, pursue, trap, kill, injure or molest any birds or animals or disturb their habitat. [Section 3(2) as amended by Ordinance 2083, passed May 26, 1992.]

(3) No person shall pick, cut, mutilate or remove from any park area flowers, shrubs, foliage, trees, plant life, barkdust, or products of any type without the written permission of the Director or his authorized agent.

(4) No person shall, except in areas designated by City Council, erect signs, markers, or inscriptions of any type within a park area without permission from the Director.

(5) No person in a park area shall sell, peddle or offer for sale any food liquids, edibles for human consumptions, or any goods, wares, service or merchandise within the park area except under permit by the Director, and then only subject to such laws and regulations as may now or hereafter exist.

(6) No person shall, except duly authorized peace officers in the course of their duties, drive, lead or keep a horse or other farm animal in any park area, except on such roads, trails or other areas designated for that purpose. No horse or such animal shall be hitched to any tree or shrub in such manner that may cause damage to such tree or shrub. The only exception to this rule would be during a parade line-up or a special event, and only after obtaining written permission from The Director.

(7) No person shall wash any clothing, or materials or other substances, or clean any fish in a park area or in a lake, stream or river, or in a park area. Park sinks, faucets and hydrants within the confines of parks or park restrooms shall not to be used for washing clothes of any type.

(8) No person shall use park sinks, other than those provided in public restrooms, for personal hygiene. Faucets, drinking fountains, hose outlets and hydrants shall not be used for this purpose.

(9) No person shall clog picnic shelter sinks in a park area with food, debris, grease or any other substances

(10) No person shall camp in a park area except by written approval of the Director.

(11) The Director may restrict to designated zone areas certain activities, including but not limited to, swimming, picnicking, group picnicking, boating, water skiing, fishing, camping, group camping, hiking and horseback riding.

(12) No person shall enter or remain in a park area anytime between the hours of 10:00 p.m. and 7:00 a.m. the following morning during April 1 through September 30 of the calendar year, or between the hours of 7:00 p.m. and 7:00 a.m. the following morning during October 1 through March 31 of the calendar year. This section shall not apply to:

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(a) Persons attending an event for which a permit has been issued.

b) Participants or spectators of athletic events in park areas lighted for these events; or

(c) Persons attending events sponsored by the City.

[Section 3(12) as amended by Ordinance 2083, passed May 26, 1992.]

(13) No person shall have in their possession, any alcoholic beverages or intoxicating liquor, or consume such liquor while in a park area except that the use of alcoholic beverages may be permitted in Centennial Park in compliance with a Special Event Park Use Permit where the city has issued the permit and the premises have been licensed for the service of alcoholic beverages by the Oregon Liquor Control Commission.

[Section 3(13) as amended by Ordinance 2083, passed May 26, 1992 and by Ordinance 2321, passed July 8, 2002.]

(14) Nothing in this ordinance shall in any manner restrict the authority of the City of Woodburn to enforce all State statutes and City Ordinances relating to the use and control of alcoholic beverages.

(15) The Director, any Park employee, Code Enforcement officer, or member of the Woodburn Police Department is authorized to issue a civil infraction citation for a violation of this ordinance.

(16) The Council, City Administrator or The Director shall have the authority to close a park area or a portion of a park area to the public at any time and without notice for any reasonable and necessary circumstance including, but not limited to, construction and maintenance in the park area and for the existence of a hazardous condition.

**Section 4. Fees.** Fees may be charged for certain services and privileges, and for the use of designated areas, buildings or facilities. No person shall enter or use such areas, buildings, services or facilities or to be granted those privileges unless the appropriate fee or fees have been paid.

**Section 5. Rules of Conduct.** The City Recreation and Parks Department may adopt administrative rules for the conduct of persons participating in City Programs in the park areas or the Community Center. All persons participating in City Programs shall be registered. The Rules of Conduct shall be administered by the Director, or a park employee.

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**Section 6. Animals.**

(1) Persons owning, keeping or harboring a dog within a park area are responsible for the dog's behavior and shall comply with the following regulations:

(a) A dog shall be on a leash not more than eight (8) feet in length, or confined in a vehicle at all times.

(b) A vicious dog shall not be permitted.

(c) A dog may not deposit solid waste matter on any improved park property unless the person owning, keeping, or harboring the dog immediately removes the solid waste.

(2) The Director or a park employee may require a person in charge of any animal to undertake any measure, including the removal of an animal from the park area to prevent interference by the animal with the safety, comfort or well being of park area visitors or resources.

(3) No farm animal, including, but not limited to, horses, cattle, sheep and goats is allowed in a park area except by permission of the Director.

**Section 7. Glass Beverage Containers.** Except by written authorization from the Director or designated park employee, no person shall possess a beverage container made of glass in any park area.

**Section 8. Additional Prohibited Activities.** In addition to any other prohibitions in this ordinance, no person in a park area shall:

(1) Set or use a public address system without the written permission of the Director.

(2) Operate or use any noise producing device in a manner that disturbs other park visitors.

(3) Use a metal detector without the written permission of the Director.

(4) Play sports or engage in other recreational activities in areas designated by the Director as unavailable for those activities.

(5) Over crowd persons or vehicles so that necessary access to emergency vehicles is unavailable. Vehicles improperly parked will be towed at owner's expense.

**Section 9. Penalty.** Any violation of this Ordinance constitutes a class 4 civil infraction and shall be dealt with according to the procedures established by Ordinance 1998.

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**Section 9A. Enhanced Penalty for Violation of Special Park Use Permit.**

Notwithstanding Section 9 of this Ordinance, which provides that a violation of the park rules established by this Ordinance constitutes a class 4 civil infraction, any violation of the terms and conditions of a Special Event Park Use Permit by the permittee shall constitute a class 1 civil infraction and shall be dealt with according to the procedures established by Ordinance 1998, the civil infraction ordinance.

(Section 9A added by Ordinance 2321, passed July 8, 2002.)

**Section 9B.** In addition to other measures provided for violation of this Ordinance, or any of the laws of the State of Oregon, any peace officer, as defined by ORS 133.005(3), as amended, or any City of Woodburn park or parks maintenance official or employee designated by the City Administrator, may exclude any person who violates any provision of this Ordinance, any City ordinance, any of the laws of the State of Oregon, or any rule or regulation duly made and issued by the by the City Recreation and Parks Department or the City Council from any City park for a period of not more than 30 days.

(1) Written notice shall be given to any person excluded from any City park. Such notice shall specify the dates and places of exclusion. It shall be signed by the issuing party. Warning of consequences for failure to comply shall be prominently displayed on the notice.

(2) A person receiving such notice may appeal to the Woodburn Municipal Court to have the written notice rescinded or the period shortened. The appeal shall be filed within 5 days of receipt of the exclusion notice, unless extended by the Court for good cause shown.

(a) The appeal need not be in any particular form, but should substantially comply with the following requirements:

- (i) Be in writing
- (ii) Identify the date, time, and place of the exclusion
- (iii) Identify the name and address of the appealing party
- (iv) Identify the official who issued the exclusion

(b) A copy of the appeal shall be served on the City Official who initiated the exclusion

(c) The appeal hearing shall be held within ten (10) days after the request is made. The day may be postponed by:

- (i) Agreement of the parties; or
- (ii) Order of the court for good cause.

(d) The court shall promptly notify:

- (i) The person appealing; and
- (ii) The issuing official

(e) At the appeal hearing the city and any interested parties shall have the right to be present evidence and witnesses and be heard. After due consideration of pertinent information and testimony the court shall render its finding. The finding of the court will be final.

(3) At any time within the 30 days, a person receiving such notice may apply in writing to the City Administrator for a temporary waiver from the effects of the notice for good reason.

(Section 9B added by Ordinance 2342, passed July 28, 2003.)

**Section 10. Severability.** Each portion of this Ordinance shall be deemed severable from any other portion. The unconstitutionality or invalidity of any portion of this Ordinance shall not invalidate the remainder of the Ordinance.

**Section 11. Repeal and Saving Clause.**

(1) Ordinance No. 1918 is hereby repealed.

(2) Notwithstanding Subsection (1) of this Section, Ordinance No. 1918 shall remain valid and in force for the purpose of authorizing arrest, prosecution, conviction and punishment of a person who violated Ordinance No. 1918 prior to the effective date of this Ordinance.

**Section 12.** [Emergency clause.]

*Passed by the Council April 22, 1991 and approved by the Mayor April 23, 1991.*

## ORDINANCE NO. 2122

## AN ORDINANCE SETTING TIMES FOR JUVENILE CURFEWS, PROVIDING FOR PENALTIES AND DECLARING AN EMERGENCY.

[Whereas clauses.]

## THE CITY OF WOODBURN ORDAINS AS FOLLOWS:

**Section 1. Curfew.** No minor under the age of 18 years shall be in or upon any street, highway, park, alley, or other public place between the hours specified in Section 2, unless:

(a) Such minor is accompanied by a parent, guardian or other person 18 years of age or over and authorized by the parent or by law to have care and custody of the minor;

(b) Such minor is then engaged in a lawful pursuit or activity which requires the presence of the minor in such public place during the hours specified in this Ordinance, or

(c) The minor is emancipated pursuant to ORS 419B.550 to 419B.558.

**Section 2. Hours of Curfew.** For minors under the age of 16 years, the curfew is between 10:00 p.m. and 6:00 a.m. of the following morning. For minors 16 years of age or older, the curfew is between 12:00 a.m. midnight and 6:00 a.m. of the following morning.

**Section 3. Responsibility of Parent or Guardian.** No parent, guardian, or person having the care and custody of a minor under the age of 18 years shall knowingly or negligently allow such minor to be in or upon any street, highway, park, alley or other public place between the hours specified in Section 2, except as otherwise provided in this Ordinance. For purposes of this section, a person negligently allows a violation if in the exercise of reasonable diligence the person should have known that a violation would occur.

**Section 4. Violation by Minor.** Any minor who violates the provisions of this ordinance may be taken into custody as provided in ORS 419C.080, 419C.085 and 419.088 and may be subjected to further proceedings as provided by law.

**Section 5. Violation by Parent or Guardian.** Violation of Section 3 of this Ordinance is a Class 2 civil infraction with a forfeiture amount not to exceed \$250.00.

**Section 6.** [Emergency clause.]

*Passed by the Council and approved by the Mayor on May 23, 1994.*

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## ORDINANCE NO. 2136

## AN ORDINANCE DEFINING CHRONIC NUISANCE PROPERTY, ESTABLISHING CERTAIN REGULATIONS THEREOF, AND DECLARING AN EMERGENCY.

[Whereas clauses.]

## THE CITY OF WOODBURN ORDAINS AS FOLLOWS:

**Section 1. Title.** This ordinance shall be known as the "Chronic Nuisance Property Ordinance."

**Section 2. Incorporation of State Statute.** Any reference to state statute incorporated into this ordinance refers to the statute in effect on the effective date of this ordinance.

**Section 3. Definitions.** As used in this ordinance, the following definitions apply.

(A) "Chief of Police" means the Chief of the Woodburn Police Department or his or her designee.

(B) "City Administrator" means the City Administrator of the City of Woodburn or his or her designee.

(C) "Chronic Nuisance Property" means property upon which three or more distinct occurrences of any of the below listed behaviors occur , or whose patrons, employees, residents, owners or occupants engage in three or more of the below listed behaviors within 400 feet of the property following acts or behaviors during any 60 day period:

(1) Criminal homicide as defined in ORS 163.005 or any type of attempted criminal homicide;

(2) Rape in the First Degree as defined in ORS 163.375;

(3) Menacing as defined in ORS 163.190;

(4) Intimidation as defined in ORS 166.155 to ORS 166.165;

(5) Harassment as defined in ORS 166.065;

(6) Disorderly Conduct as defined in ORS 166.025;

(7) Discharge of Weapons as defined in Section 5, Woodburn City Ordinance 1900;

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(8) Unnecessary Noise as defined in Section 3, Woodburn City Ordinance 1900;

(9) Drinking in Public Places as defined in Section 1, Woodburn City Ordinance 1900;

(10) Minor in Possession of Alcohol as defined in ORS 471.430;

(11) Assault as defined in ORS 163.160, 163.165, 163.175, or 163.185;

(12) Sexual Abuse as defined in ORS 163.415 to ORS 163.427;

(13) Public Indecency as defined in ORS 163.465;

(14) Public Indecency as defined in Section 2, Woodburn City Ordinance 1900;

(15) Criminal Trespass as defined in ORS 164.245;

(16) Criminal Mischief as defined in ORS 164.345 to ORS 164.365

(17) Unlawful Use of a Weapon as defined in ORS 166.220.

(D) "Owner" means the person or persons having legal or equitable title to the property.

(E) "Property" means any real property including land and that which is affixed, incidental or appurtenant to land, including but not limited to any premises, room, apartment, house, building or structure or any separate part or portion thereof, whether permanent or not.

(F) "Responsible party" includes each of the following:

(1) The owner of the property, or the owner's manager or agent or other person in control of the property on behalf of the owner; or

(2) The person occupying the property, including a bailee, lessee, tenant or other person having possession.

#### **Section 4. Chronic Nuisance Property.**

(A) The acts or omissions described herein are hereby declared to be public nuisances of the sort that commonly recur in relation to a given property, thereby requiring the remedies set out in this ordinance.

(B) Any property within the City of Woodburn which becomes chronic nuisance property is in violation of this ordinance and subject to its remedies.



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(C) Any person who is a responsible party for property which becomes a chronic nuisance property shall be in violation of this ordinance and subject to its remedies.

**Section 5. Prefiling Notification Procedure.** After two occurrences of any of the acts or behaviors listed in Section 3(C) of this ordinance within a 60-day period, the Chief of Police shall provide notification via certified mail, stating the times and places of the alleged occurrences and the potential liability for violation of this ordinance, to all responsible parties for the property. Responsible parties for a given property shall be presumed from the following:

(A) The owner and the owner's agent, as shown on the tax rolls of Marion County.

(B) The resident of the property, as shown on the records of the City of Woodburn Water Department.

**Section 6. Compliance Agreement with Responsible Parties.**

(A) After providing notification to all responsible parties as provided in Section 5 above, the Chief of Police has the authority to obtain, on behalf of the city, voluntary agreements to comply with the provisions of this ordinance. Such compliance agreements shall be in written form and signed by all responsible parties. The Chief of Police shall sign said agreements on behalf of the city and provide copies thereof to the City Administrator.

(B) In proposing and signing compliance agreements under this Section, the Chief of Police shall consider the criteria outlined in Section 9 (B) below.

(C) This Section is strictly remedial in nature and shall not be interpreted to limit in any manner the authority of the city to commence an action against any responsible party for a violation of this ordinance, as provided below.

**Section 7. Commencement of Actions; Summon and Complaint.**

(A) Except as otherwise noted, the procedures to be used in processing an infraction under this ordinance are contained in Ordinance 1998, the Civil Infraction Ordinance.

(B) Subject to the limitations of Ordinance 1998, a default judgment may be entered against a respondent who fails to appear at the scheduled hearing. Upon such judgment, the court may prescribe the remedies described in the ordinance.

**Section 8. Remedies.**

(A) Upon finding that the respondent has violated this ordinance, the court may:

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(1) Require that the chronic nuisance property be closed and secured against all use and occupancy for a period of not less than 30, but not more than 180 days; and/or

(2) Assess a civil infraction penalty not to exceed \$500.00; and/or

(3) Employ any other remedy deemed by the court to be appropriate to abate the nuisance.

(B) In lieu of closure of the property pursuant to Subsection (A) of this section, the respondent may file a bond acceptable to the court. Such bond shall be in an amount of at least \$500 and shall be conditioned upon the non-recurrence of any of the acts or behaviors listed at Section 3(C) of this ordinance for a period of one year after the judgment. Acceptance of the bond described herein is further subject to the court's satisfaction of the respondent's good faith commitment to abatement of the nuisance.

#### **Section 9. Defenses; Mitigation of Civil Penalty.**

(A) It is a defense to an action brought pursuant to this ordinance that the responsible party at the time in question could not, in the exercise of reasonable care or diligence, determine that the property had become chronic nuisance property, or could not, in spite of the exercise of reasonable care and diligence, control the conduct leading to the finding that the property is chronic property. However it is no defense under this subsection that the party was not at the property at the time of the incidents leading to the chronic nuisance situation.

(B) In implementing the remedies described in this ordinance, the court may consider any of the following factors, as they may be appropriate, and shall cite those found applicable:

(1) The actions taken by the owner(s) to mitigate or correct the problem at the property;

(2) Whether the problem at the property was repeated or continuous;

(3) The magnitude or gravity of the problem;

(4) The cooperativeness of the owner(s) with the City in remedying the problem;

(5) The cost to the City of investigating and correcting or attempting to correct the condition;

(6) Any other factor deemed by the court to be relevant.

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**Section 10. Closure During Pendency of Action; Emergency Closures.** In addition to any other remedy available to the City under this ordinance, in the event that the City Administrator finds that a property constitutes an immediate threat to the public safety and welfare, the City may apply to any court of competent jurisdiction for such interim relief as is deemed to be appropriate.

**Section 11. Enforcement of Closure Order; Costs; Civil Penalty.**

(A) The court may authorize the City to physically secure the property against use or occupancy in the event that the owner(s) fail to do so within the time specified by the court.

(B) The court may assess on the property owner the following costs incurred by the City in effecting a closure of property:

(1) Costs incurred in actually physically securing the property against use;

(2) Police department investigative costs;

(3) Administrative costs and attorneys fees in bringing the action for violation of this ordinance.

(C) The City Administrator may, within 14 days of written decision by the court, submit a signed and detailed statement of costs to the court for its review. If no objection to the statement is made within the period prescribed by Oregon Rule of Civil Procedure 67, a copy of the statement, including a legal description of the property shall be forwarded to the office of the City Recorder who thereafter shall enter the same in the City's lien docket.

(D) Persons assessed the costs of closure and/or civil penalty pursuant to this ordinance shall be jointly and severally liable for the payment thereof to the City.

**Section 12. Attorney Fees.** In any action brought pursuant to this ordinance, the court may, in its discretion, award reasonable attorneys fees to the prevailing party.

**Section 13. Severability.** If any provision of this ordinance, or its application to any person or circumstance, is held to be invalid for any reason, the remainder of the ordinance, or the application of its provisions to other persons or circumstances, shall not in any way be affected.

**Section 14. Nonexclusive Remedy.** The remedy described in this ordinance shall not be the exclusive remedy of the City for the acts and behaviors described in Section 3(C).

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Section 15. [Emergency clause.]

*Passed by the Council December 12, 1994 and approved by the Mayor  
December 14, 1994.*

## ORDINANCE NO. 2138

**AN ORDINANCE GRANTING AUTHORITY AND ESTABLISHING PROCEDURES FOR INVENTORY SEARCHES BY THE WOODBURN POLICE DEPARTMENT AND DECLARING AN EMERGENCY.**

[Whereas clauses.]

**THE CITY OF WOODBURN ORDAINS AS FOLLOWS:**

**Section 1. Purpose.** This ordinance is meant to exclusively apply to the process for conducting an inventory of the personal property in an impounded vehicle and the personal possessions of a person in police custody and shall not be interpreted to affect any other statutory or constitutional right that police officers may employ to search persons or search or seize possessions for other purposes.

**Section 2. Definitions.** For the purpose of this ordinance, the following definitions shall apply:

(A) "Valuables" means:

1. Cash in an aggregate amount of \$50.00 or more; or
2. Individual items of personal property with a value of over \$500.00.

(B) "Open container" means a container which is unsecured or incompletely secured in such a fashion that the container's contents are exposed to view.

(C) "Closed container" means a container whose contents are not exposed to view.

(D) "Police custody" means either:

1. The imposition of restraint as a result of an 'arrest' as that term is defined in ORS 133.005(1);
2. The imposition of actual or constructive restraint by a police officer pursuant to a court order;
3. The imposition of actual or constructive restraint by a police officer for purposes of taking the restrained person to an approved facility for the involuntary confinement of persons pursuant to Oregon law.

(E) "Police officer" means any peace officer, as defined by ORS 133.005 (3) who is employed by the Woodburn Police Department.

**Section 3. Inventories of Impounded Vehicles.**

(A) The contents of all vehicles impounded by a police officer shall be inventoried. The inventory shall be conducted before constructive custody of the vehicle is released to a third-party towing company except under the following circumstances:

1. If there is reasonable suspicion to believe that the safety of either the police officer or another person is at risk, a required inventory shall be done as soon as safely practical; and

2. If the vehicle is being impounded for evidentiary purposes in connection with the investigation of a criminal offense, the inventory shall be done after such investigation is completed.

(B) The purposes for the inventory of an impounded vehicle are:

1. To promptly identify property to establish accountability and avoid spurious claims to property;

2. To assist in the prevention of theft of property;

3. To locate toxic, flammable or explosive substances; and

4. To reduce the danger to persons and property.

(C) Inventories of impounded vehicles shall be conducted according to the following procedure:

1. An inventory of personal property and the contents of open containers shall be conducted throughout the passenger and engine compartments of the vehicle including, but not limited to, accessible areas under or within the dashboard area, in any pockets in the doors or in the back of the front seat, in any console between the seats, under any floor mats and under the seats;

2. In addition to the passenger and engine compartments as described above, an inventory of personal property and the contents of open containers shall also be conducted in the following locations:

a. Any other type of unlocked compartments that are a part of the vehicle including, but not limited to, unlocked vehicle trunks and unlocked car-top containers; and

b. Any locked compartments including, but not limited to, locked vehicle trunks, locked hatchbacks and locked car-top containers, if either the keys are available to be released with the vehicle to the third-party towing company or an unlocking mechanism for such compartment is available within the vehicle.

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3. Unless otherwise provided in this ordinance, closed containers located either within the vehicle or any of the vehicle's compartments will not be opened for inventory purposes.

4. Upon completion of the inventory, the police officer shall complete a report.

5. Any valuables located during the inventory process shall be listed on a property receipt. A copy of the property receipt shall either be left in the vehicle or tendered to the person in control of the vehicle if such person is present.

#### **Section 4. Inventories of Persons in Police Custody.**

(A) A police officer shall inventory the personal property in the possession of a person taken into police custody and said inventory will occur:

1. At the time of booking; or

2. At the time custody of the person is transferred to another law enforcement agency, correctional facility, or "treatment facility" as that phrase is used in ORS 426.460 or such other lawfully approved facility for the involuntary confinement of persons pursuant to Oregon Revised Statute.

(B) The purposes for the inventory of a person in police custody are:

1. To promptly identify property to establish accountability and avoid spurious claims to property;

2. To fulfill the requirements of ORS 133.455 to the extent that such statute may apply to certain property held by the police officer for safekeeping;

3. To assist in the prevention of theft of property;

4. To locate toxic, flammable or explosive substances;

5. To locate weapons and instruments that may facilitate an escape from custody or endanger law enforcement personnel; and

6. To reduce the danger to persons and property.

(C) Inventories of the personal property in the possession of such persons shall be conducted according to the following procedures:

1. An inventory shall occur at the time of booking. However, if reasonable suspicion exists to believe that the safety of either the police officer or the person in custody or both are at risk, an inventory will be done as soon as safely practical prior to the transfer of custody to another law enforcement agency or facility.

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2. To complete the inventory of the personal property in the possession of such person, the police officer shall remove all items of personal property from the clothing worn by such person. In addition, the officer will also remove all items of personal property from all open containers in the possession of such person.

3. A closed container in the possession of such person will have its contents inventoried only when:

a. the closed container is to be placed in the immediate possession of such person at the time that person is placed in the secure portion of a custodial facility, police vehicle or secure police holding room;

b. such person requests that the closed container be with them in the secure portion of a police vehicle or a secure police holding room; or

c. the closed container is designed for carrying money and/or small valuables on or about the person including, but not limited to, closed purses, closed coin purses, closed wallets and closed fanny packs.

(D) Valuables found during the inventory process shall be noted by the police officer in a report.

(E) All items of personal property not left in the immediate possession of the person in custody nor left with the facility or agency accepting custody of the person shall be handled by preparing a property receipt listing the property to be retained in the possession of the police department. A copy of that receipt will be tendered to the person in custody when such person is released to the facility or agency accepting custody of such person;

(F) All items of personal property not left in the immediate possession of the person in custody nor dealt with as provided in section 4(E) above, will be released to the facility or agency accepting custody of the person so that they may:

1. Hold the property for safekeeping on behalf of the person in custody, and

2. Prepare and deliver a receipt, if required by ORS 133.455, for any valuable held on behalf of the person in custody.

**Section 5.** [Emergency clause.]

*Passed by the Council February 13, 1995 and approved by the Mayor February 14, 1995.*



## ORDINANCE NO. 2173

AN ORDINANCE RELATING TO GRAFFITI NUISANCE PROPERTY; PROVIDING FOR NOTICE TO PROPERTY OWNERS; REQUIRING ABATEMENT OF GRAFFITI; PROVIDING FOR REMEDIES; AND DECLARING AN EMERGENCY.

THE CITY OF WOODBURN ORDAINS AS FOLLOWS:

**Section 1. DEFINITIONS:**

A. "Graffiti" means any inscriptions, words, figures or designs that are marked, etched, scratched, drawn, painted, pasted or otherwise affixed to the surface of property.

B. "Graffiti nuisance property" means property to which graffiti has been applied, if the graffiti is visible from any public right-of-way, any other public or private property or from any premises open to the public, and if the graffiti has not been abated within the time required by this ordinance.

C. "Owner" means the legal owner of property or a person in charge of property.

D. "Person in charge of property" means an agent, occupant, lessee, contract purchaser or other person having possession or control of property or supervision of a construction project.

E. "Property" means any real or personal property and that which is affixed, incident or appurtenant to real property, including but not limited to any premises, house, building, fence, structure or any separate part thereof, whether permanent or not.

**Section 2. PROHIBITED GRAFFITI.** It shall be unlawful for any person to apply graffiti.

**Section 3. PENALTY.** Violation of Section 2 of this ordinance is punishable by the penalty provided by Oregon State Law.

**Section 4. GRAFFITI NUISANCE PROPERTY.**

A. It is hereby found and declared that graffiti creates a visual blight and property damage. When graffiti is allowed to remain on property and not promptly removed, it invites additional graffiti, gang activity, criminal activity, and constitutes a nuisance.

B. Any property within the city which becomes graffiti nuisance property is in violation of this ordinance.

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C. Any owner of property who permits said property to be a graffiti nuisance property is in violation of this ordinance.

**Section 5. NOTICE PROCEDURE.**

A. When the Chief of Police believes in good faith that property within the city is a potential graffiti nuisance property, the Chief of Police shall, notify the owner in writing that the property is a potential graffiti nuisance property. The notice shall contain the following information:

(1) The street address or description sufficient for identification of the property.

(2) That the Chief of Police has found the property to be a potential graffiti nuisance property with a concise description of the conditions leading to this finding.

(3) A direction to abate the graffiti, or show good cause to the Chief of Police why the owner cannot abate the graffiti, within ten city business days from service of the notice.

(4) That if the graffiti is not abated and good cause for failure to abate is not shown, the City Council may order abatement, with appropriate conditions. the City Council may also employ any other remedy deemed by it to be appropriate to abate the nuisance, including but not limited to authorizing a civil complaint to be filed in a court of competent jurisdiction.

(5) That permitting graffiti nuisance property is a Class 1 civil infraction punishable by a civil forfeiture not to exceed \$500, pursuant to the Civil Infraction Ordinance.

(6) That the above remedies are in addition to those otherwise provided by law.

B. Service of the notice is completed by personal service or upon mailing the notice by first class mail, postage prepaid, addressed to the owner at the owner's last known address.

C. A copy of the notice shall be served on occupants of the property, if different from the owner.

D. The failure of any person or owner to receive actual notice of the determination by the Chief of Police shall not invalidate or otherwise affect the proceedings under this ordinance.

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**Section 6. ABATEMENT PROCEDURES**

A. Within ten business days of the personal service or mailing of the notice the owner shall abate the graffiti or show good cause why the owner cannot abate the graffiti within that time period.

B. Upon good cause shown, the Chief of Police may grant an extension not to exceed ten additional city business days.

C. If the owner does not comply with the provisions of this ordinance, the Chief of Police may refer the matter to the City Council for hearing as a part of its regular agenda at the next succeeding meeting. The City Recorder shall give notice of the hearing to the owner and occupants, if the occupants are different from the owner.

D. At the time set for a hearing, the owner and occupants may appear and be heard by the City Council.

E. The City Council shall determine whether the property is graffiti nuisance property and whether the owner has complied with this ordinance.

F. The city has the burden of proving by a preponderance of the evidence that the property is graffiti nuisance property.

G. The owner has the burden of proving by a preponderance of the evidence that there is good cause for failure to abate the nuisance within ten city business days of the personal service or mailing of the notice.

**Section 7. REMEDIES OF THE CITY**

A. In the event that the City Council determines that the property is graffiti nuisance property, the City Council may order that the nuisance be abated. This order may include conditions under which abatement is to occur.

B. The City Council may also employ any other legal remedy deemed by it to be appropriate to abate the nuisance, including but not limited to authorizing the filing of a civil complaint in a court of competent jurisdiction.

C. The remedies provided in this section are in addition to those otherwise provided by law.

**Section 8. CIVIL PENALTY.** Permitting graffiti nuisance property is a Class I civil infraction punishable by a civil forfeiture not to exceed \$500, pursuant to the Civil Infraction Ordinance.

**Section 9. ABATEMENT BY THE CITY.** If the owner fails to abate the nuisance as ordered by the City Council, the city may cause the nuisance to be abated as provided in the City Nuisance Ordinance, Ordinance No. 1616.

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Section 10. [Emergency clause.]

*Passed by the Council July 8, 1996 and approved by the Mayor July 10, 1996.*

## ORDINANCE NO. 2312

**AN ORDINANCE REGULATING NOISE WITHIN THE CITY OF WOODBURN; PROVIDING FOR ENFORCEMENT OF NOISE REGULATIONS; AND DECLARING AN EMERGENCY.****THE CITY OF WOODBURN ORDAINS AS FOLLOWS:**

**Section 1. Purpose.** This ordinance is enacted to protect, preserve, and promote the health, safety, and welfare of the residents of the City of Woodburn through the reduction, control, and prevention of loud raucous noise, or any noise which unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of reasonable persons of ordinary sensitivity.

**Section 2. Findings.**

A. Loud and raucous noise degrades the environment of the City of Woodburn because it is harmful to the health, welfare, and safety of its inhabitants and visitors; it interferes with the comfortable enjoyment of life and property; it interferes with the well-being, tranquility, and privacy of the home; and it can cause and aggravate health problems.

B. The effective control and elimination of loud and raucous noise are essential to the health and welfare of the City of Woodburn's inhabitants and visitors to conduct the normal pursuits of life, including recreation, work, and communications.

C. The use of sound amplification equipment creates loud and raucous noise that may, in a particular manner and in a particular time and place, substantially and unreasonably invade the privacy, peace, and freedom of the inhabitants and visitors to the City of Woodburn.

D. Some flexibility in noise restrictions is essential in order to allow for the construction and the maintenance of structures, infrastructure, and other elements necessary for the physical and commercial well-being of the City of Woodburn.

**Section 3. Scope.** This Ordinance shall be known as the Woodburn Noise Ordinance and will apply to control all sound originating within the jurisdictional limits of the City of Woodburn.

**Section 4. Definitions.** For the purposes of this ordinance, the following definitions apply:

A. A-SCALE (dBA). The sound level in decibels measured using the A-weighted network as specified in the American National Standard Specification for Sound Level Meters.

B. DECIBEL (dB). The unit for measuring the volume of a sound.

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C. NOISE SENSITIVE UNIT Any authorized land use of a church, temple, synagogue, day care center, hospital, rest home, retirement home, group care home, school, dwelling unit (single-family dwelling, duplex, triplex, multi-family dwelling, or mobile home) or other use of the same general type, and rights-of-way appurtenant thereto, whether publicly or privately owned.

D. SOUND LEVEL METER. A sound measuring device, either Type 1 or Type 2, as defined by American National Standard Specification for Sound Level Meters.

E. SOUND PRODUCING DEVICE. A sound producing device includes, but is not limited to, the following:

- (1) Loudspeakers;
- (2) Radios, tape players, compact disc players, phonographs, boom boxes, television sets, or stereo systems, including those installed in a vehicle;
- (3) Musical instruments;
- (4) Sirens, bells or whistles;
- (5) Engines or motors;
- (6) Air, electrical, or gas-driven tools, including, but not limited to, drills, chainsaws, lawn mowers, saws, hammers or similar tools;
- (7) Motor vehicles, including automobiles, motorcycles, motorbikes, trucks, buses, snowmobiles, boats or any similar piece of equipment equipped with a propelling device;
- (8) Persons or animals causing sound to emanate.

#### **Section 5. Sound Measurements.**

A. When sound measurements are made for the enforcement of this Ordinance, they shall be made with a sound level meter. The sound level meter shall be an instrument in good operating condition, meeting the requirements of a Type I or Type II meter and shall contain at least an A-weighted scale, and both fast and slow meter response capability.

B. If sound measurements are made, the person making those measurements shall have completed training in the use of the sound level meter, and shall use measurement procedures consistent with that training

C. Measurements may be made at or within the boundary of the property on which a noise sensitive unit is located which is not the source of the sound.

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**Section 6.     Noises Prohibited.**

A.     It shall be unlawful for any person to produce or permit to be produced, with any sound producing device which when measured at or within the boundary of the property on which a noise sensitive unit is located which is not the source of the sound, which sound exceeds the following levels:

(1)     60 dBA at any time between 9:00 p.m. and 7:00 a.m. of the following day where the property receiving the noise has a residential zoning designation.

(2)     70 dBA at any time between 7:00 a.m. and 9:00 p.m. of the same day where the property receiving the noise has a residential zoning designation.

(3)     65 dBA at any time between 9:00 p.m. and 7:00 a.m. of the following day where the property receiving the noise has a zoning designation which is not residential.

(4)     80 dBA at any time between 7:00 a.m. and 9:00 p.m. of the same day where the property receiving the noise has zoning designation which is not residential.

B.     In addition to Section 6A, any person producing or permitting to be produced the following noise disturbances, shall be found in violation of this Ordinance, regardless of the decibel level of the disturbance:

(1)     Repair and testing of a motor vehicle or other engine which is plainly audible within a noise sensitive unit between the hours of 9:00 p.m. and 7:00 a.m. of the following day.

(2)     The operation of any gong, bell or siren upon any vehicle, other than police, fire or other emergency vehicle.

(3)     The sounding of any motor vehicle audible anti-theft alarm system for a period of more than 20 minutes.

(4)     The use of a mechanical device operated by compressed air, steam or otherwise, unless the noise created thereby is effectively muffled.

(5)     The detonation of a blasting or explosive device, except as allowed under a permit issued by the appropriate governmental authority.

(6)     The keeping of an animal which by loud and frequent or continued noise disturbs the comfort and repose of a person in the vicinity.

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(7) The erection, including excavation, demolition, alteration or repair of any building other than between the hours of 7:00 a.m. and 9:00 p.m. except in the case of urgent necessity in the interest of the public welfare and safety and then only with a permit granted by the City Administrator for a period not to exceed ten (10) days.

**Section 7. Exceptions.** The following constitute exceptions to this Ordinance and shall not be construed as violations:

A. Sounds created by organized athletic or other group activities, when such activities are conducted on public property generally used for such purposes, such as stadiums, schools, and athletic fields.

B. Sounds caused by emergency work, or by the ordinary and accepted use of emergency equipment, vehicles and apparatus.

C. Sounds caused by bona fide use of emergency warning devices and properly functioning alarm systems.

D. Sounds regulated by federal law, including but not limited to, sounds caused by railroads or aircraft.

E. Sounds caused by demolition activities when performed under a permit issued by appropriate governmental authorities.

F. Sounds caused by construction activity during the hours of 7:00 a.m. to 9:00 p.m. of the same day.

G. Sounds caused by regular vehicular traffic upon premises open to the public.

H. Sounds caused by air, electrical or gas-driven domestic tools, including but not limited to, lawn mowers, lawn edgers, saws, drills, blowers, and or other similar lawn or construction tools, during the hours of 7:00 a.m. to 9:00 p.m. of the same day.

I. Bells, chimes and carillons while being used for religious purposes or in conjunction with religious services, or for national celebrations or public holidays.

J. Parades for which a City permit has been issued.

K. Sounds resulting from an event conducted in a City park where a park use permit has been issued and the conditions of that permit and this Ordinance have been complied with.

L. Any noise resulting from activities of a temporary duration which is otherwise permitted by law.



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**Section 8.     Sound Amplification Permits**

A.     No person shall use or cause to be used any loudspeaker, loudspeaker system, sound amplifier or any other machine or device which produces, reproduces, or amplifies sound outside of an enclosed building without first having obtained a sound amplification permit.

B.     Any person desiring to obtain a sound amplification permit shall submit a written application to the Police Chief no later than 30 days prior to proposed date for commencement of the amplified sound. The application shall include the following:

(1)    A description of the activity proposed to be conducted for which the sound amplification permit is requested;

(2)    A description of the amplification equipment or devices to be used;

(3)    A statement of the measures that the applicant will take to insure that the sound amplification will not unreasonably disturb other people in the vicinity;

(4)    The exact time periods and location where the sound amplification will take place;

(5)    The name of the person who shall be responsible for monitoring and insuring compliance with the terms of any permit that is granted;

(6)    Any City fee for processing the application; and

(7)    Any other information that the Police Chief determines is reasonably needed to assure compliance with the provisions of this Ordinance.

C.     The Police Chief may grant the sound amplification permit if he or she determines that the sound amplification will not occur within a residential zone and that it will be conducted in such a manner as not to unreasonably disturb the neighbors of other persons in the vicinity of the site and that the measures, if implemented, will be adequate. In granting a permit, the Police Chief may impose such conditions as may be appropriate or necessary to protect the public peace, safety, and welfare.

D.     Any permit granted pursuant to this Ordinance shall be revocable at any time by the Police Chief for good cause.

E.     Any person aggrieved by any decision rendered by the Police Chief pursuant to this Ordinance shall have the right to appeal the decision to the City Council. Any appeal shall be in writing and shall be submitted no later than ten (10) calendar days following the date of the decision.

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**Section 9. Sound Amplification in City Parks.** Notwithstanding any other provisions of this Ordinance, the Director of Recreation and Parks is authorized to allow amplified sound in a City park by the issuance of a park use permit where a sound level of 80 dBA is not exceeded.

**Section 10. Authority for Enforcement.** This Ordinance shall be enforced by the Woodburn Police Department.

**Section 11. Civil Infraction Assessment.** Each violation of any provision of this Ordinance constitutes a class 1 civil infraction and shall be dealt with according to the procedures established by City ordinance.

**Section 12. Institution of Legal Proceedings.** The City Attorney, acting in the name of the City, may maintain an action or proceeding in a court of competent jurisdiction to compel compliance with or restrain by injunction the violation of any provision of this Ordinance as additional remedy.

**Section 13. Ordinance Additional to Other Law.** The provisions of this Ordinance shall be cumulative and non-exclusive and shall not affect any other claim, cause of action or remedy; nor, unless specifically provided, shall it be deemed to repeal, amend or modify any law, ordinance or regulation relating to noise or sound, but shall be deemed additional to existing legislation and common law on such subject.

**Section 14. Severability Clause.** If a portion of this Ordinance is for any reason held to be invalid, such decision shall not affect validity of the remaining portions of this ordinance.

**Section 15. Repeal.** Section 3 (Unnecessary Noise) of Ordinance 1900 is hereby repealed.

**Section 16. Saving Clause.** The repeal of any ordinance by this Ordinance shall not preclude any action against any person who violated the ordinance prior to the effective date of this Ordinance.

**Section 17. Emergency Clause.** This ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist and this ordinance shall take effect immediately upon passage by the Council and approval by the Mayor.

*Passed by the Council April 8, 2002 and approved by the Mayor April 9, 2002.*

## ORDINANCE NO. 2338

AN ORDINANCE DEFINING NUISANCES; PROVIDING FOR NUISANCE ABATEMENT; ESTABLISHING A PENALTY; REPEALING ORDINANCE 1616 AND ORDINANCE 1822; AND DECLARING AN EMERGENCY.

## THE CITY OF WOODBURN ORDAINS AS FOLLOWS:

Section 1. Definitions.

A. Enforcement Officer. A police officer, code enforcement officer or other city official authorized by the City Administrator to enforce this Ordinance.

B. Junk. Broken, discarded, or accumulated objects, including but not limited to: appliances, building supplies, furniture, vehicles, or part of vehicles.

C. Junked Vehicle. A vehicle which is damaged or defective in any of the following respects which either make the vehicle immediately inoperable or would prohibit the vehicle from being operated in a reasonably safe manner:

1. Flat tires, missing tires, missing wheels, or missing or partially or totally disassembled tires and wheels;

2. Missing or partially or totally disassembled essential part or parts of the vehicle's drive train, including, but not limited to, engine, transmission, transaxle, drive shaft, differential, or axle;

3. Extensive exterior body damage or missing or partially or totally disassembled essential body parts, including, but not limited to, fenders, doors, engine hood, bumper or bumpers, windshield, or windows;

4. Missing or partially or totally disassembled essential interior parts, including, but not limited to, driver's seat, steering wheel, instrument panel, clutch, brake, gear shift lever;

5. Missing or partially or totally disassembled parts essential to the starting or running of the vehicle under its own power, including, but not limited to, starter, generator or alternator, battery, distributor, gas tank, carburetor or fuel injection system, spark plugs, or radiator;

6. The interior is being used as a container for metal, glass, paper, rags or other cloth, wood, auto parts, machinery, waste or discarded materials in such quantity, quality and arrangement that a driver cannot be properly seated in the vehicle;

7. The vehicle is lying on the ground (upside down, on its side, or at other extreme angle), sitting on block or suspended in the air by any other method;

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8. The vehicle is located in an environment which includes, but is not limited to, vegetation that has grown up around, in or through the vehicle, the collection of pools of water in the vehicle, and the accumulation of other garbage or debris around the vehicle.

D. Owner. The owner of record, based on the Marion County's most recent taxation and assessment roll, of the property on which the alleged public nuisance exists at the time of the violation.

E. Person. Any natural person, firm, partnership, association or corporation

F. Person in Charge of Property. An owner, agent, occupant, lessee, tenant, manager, contract purchaser, bailee or other person having possession or control of property or the supervision of any construction project.

G. Responsible Party. The person responsible for abating, curing or remedying a nuisance shall include:

1. The owner,

2. A person in charge of property,

3. The person who is alleged to have committed the acts or omissions, created or allowed the condition to exist, or placed the object or allowed the object to exist on the property that constitutes a nuisance as defined in this Ordinance or another Ordinance of this city.

H. Vehicle. Any device in, upon or by which any person or property is or may be transported or drawn upon a public highway and includes vehicles that are propelled or powered by any means.

## Section 2. Declaration of Public Nuisances.

The acts, omissions, conditions or objects specifically enumerated in this Ordinance are hereby declared to be public nuisances and may be abated as provided in this Ordinance. In addition to the nuisances specifically enumerated in this Ordinance, every other thing, substance or act determined by the City Council to be offensive, harmful or detrimental to the public health, safety or welfare of the city is declared to be a public nuisance.

**Section 3. Nuisances Affecting the Public Health.** No person or responsible party shall cause or permit a nuisance affecting the public health. The following are declared to be nuisances affecting the public health:

A. Cesspools. Cesspools or septic tanks that are in an unsanitary condition or which cause an offensive odor.

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B. Dead Animals. Any carcass or carcass part of any fowl or animal.

C. Garbage. As used in this subsection the term "garbage" means an accumulation of decomposed animal or vegetable matter, debris, rubbish, trash, filth, or refuse except:

1. Yard cuttings, other than grass clippings, may be accumulated on property owned or leased by the person for burning at the first available burn season. The accumulations shall meet the size and location requirements of the fire code.

2. Composting, but only if it is maintained in a way that does not attract vermin, and does not produce an offensive odor.

D. Odor. Premises that are in such a state or condition as to cause an offensive odor detectable at the property line.

E. Privies and Outdoor Toilet Facilities. Any privy or outdoor toilet facility, except a properly functioning portable toilet as that term is defined by the Oregon Department of Environmental Quality.

F. Rodent Attracting Condition. Any condition outside a building or structure which attracts or is likely to attract, feed or harbor rodents.

G. Stagnant Water. Stagnant water that affords a breeding place for mosquitoes and insect pests.

H. Surface Drainage. Drainage of liquid wastes from private premises.

I. Water Pollution. Any sewage, industrial waste or other substances placed in or near a body of water, well, spring, stream or drainage ditch in a way that may cause harmful material to pollute the water.

**Section 4. Nuisances Affecting the Public Safety.** No person or responsible party shall cause or permit a nuisance affecting the public safety. The following are declared to be nuisances affecting the public safety:

A. Razor and Electric Fences. A fence constructed of materials that could cause bodily harm, including, but not limited to, those conveying electric current, razor wire, spikes and broken glass.

B. Dangerous Trees. A standing dead or decaying tree that is in danger of falling or otherwise constitutes a hazard to the public or to any persons or property within the public right- of-way.

C. Hazardous Vegetation. Vegetation that reasonably constitutes a health hazard, fire hazard or traffic hazard.

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D. Holes. A well, cistern, cesspool, excavation or other hole of a depth of four feet or more and a top width of 12 inches or more, unless it is covered or fenced with suitable protective construction.

E. Obstructions. Earth, rock and other debris and other objects that may obstruct or render the street or sidewalk unsafe for its intended use.

F. Snow and Ice. Snow or ice remaining on a sidewalk abutting the property of the owner or person in charge of property for longer than the first two hours of daylight after cessation of the snowfall or formation of the ice, unless covered with sand or other suitable material to assure safe travel.

#### Section 5. Noxious Vegetation.

A. The term “noxious vegetation” means:

1. Weeds more than ten inches high;
2. Grass more than ten inches high;
3. Poison oak, poison ivy, or similar vegetation;
4. Berry vines and bushes that extend into a public right-of-way.

B. Between May 1 and September 30 of any year, no owner or responsible party shall allow noxious vegetation to be on the property or in the right-of-way of a public thoroughfare abutting on the property. The owner or responsible party shall cut down or destroy grass, shrubbery, brush, bushes, weeds or other noxious vegetation as often as needed to prevent them from becoming unsightly or, in the case of weeds or other noxious vegetation, from maturing or from going to seed.

C. The term “noxious vegetation” does not include vegetation that constitutes an agricultural crop, unless that vegetation is a health hazard or a fire or traffic hazard.

**Section 6. Attractive Nuisances.** No person or responsible party shall permit on property:

A. Unguarded machinery, equipment or other devices which are attractive, dangerous, and accessible to children.

B. Lumber, logs, building material or piling placed or stored in a manner so as to be attractive, dangerous, and accessible to children.

C. An open pit, quarry, cistern or other excavation without safeguards or barriers to prevent such places from being used by children

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D. A container with a compartment of more than one and one-half cubic feet capacity and a door or lid which locks or fastens automatically when closed and which cannot easily be opened from the inside which is accessible to children.

This section shall not apply to authorized construction projects conducted pursuant to applicable laws with reasonable safeguards to prevent injury or death to playing children.

#### **Section 7. Junked Vehicle Nuisances.**

A. Junked vehicles are hereby found to create a condition tending to reduce the value of property, to promote blight and deterioration, and invite plundering and vandalism, to create fire hazards, to constitute an attractive nuisance creating a hazard to the health and safety of minor, to create a harborage for rodents and insects, and to be injurious to the health, safety, and general welfare.

B. No person or responsible party shall park or in any other manner place and leave unattended on public property, a junked vehicle for more than forty-eight (48) continuous hours, even if the owner or operator of the vehicle did not intend to permanently desert or forsake the vehicle

C. No person or responsible party shall park, store, keep or maintain on private property a junked vehicle for more than thirty (30) days.

D. It shall be permissible to keep or permit the keeping of a junked vehicle within the city if the junked vehicle is completely enclosed within a building or is kept in connection with a licensed and legally zoned junkyard or automobile wrecking yard.

**Section 8. Open Storage of Junk.** No person or responsible party shall deposit, store, maintain or keep any junk on real property, except in a fully enclosed storage facility, building or garbage receptacle. This section shall not apply to material kept by a licensed and legally zoned junkyard or automobile wrecking yard.

**Section 9. Scattering Rubbish.** No person or responsible party shall deposit upon public or private property any kind of rubbish, trash, debris, refuse, or any substance that would mar the appearance of the property, create a stench or fire hazard, detract from the cleanliness or safety of the property or would be likely to cause injury to a person or animal.

**Section 10. Garbage and Debris – Disposition.** A person in charge of property shall dispose of perishable garbage before it becomes offensive promptly, but in any event at least bi-weekly; and not permit garbage to accumulate on or about the premises. All garbage shall be disposed of in a manner which does not create a nuisance and which is permitted by this chapter. Garbage may be disposed of by hauling or causing it to be hauled to a garbage dump.

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**Section 11. Garbage Cans and Containers.**

A. A person in charge of property where garbage accumulates shall keep or cause to be kept on the premises one or more portable containers of a standard type suitable for deposit of garbage and shall deposit or cause to be deposited in the containers all garbage that accumulates on the premises.

B. Garbage containers shall be sturdy, watertight, not easily corrodible, rodent-and-insect-proof, and have handles at the sides and tightly fitting lids. When not being emptied or filled, the container shall be kept tightly closed and out of the city right-of-way. They shall be conveniently accessible to garbage haulers. Within 24 hours of garbage collection the person in charge of property shall remove all garbage containers from the collection point and place them either next to the side of the main dwelling unit or in a location out of the view of public or adjacent property. Residents whose point of collection is from an alley need not remove the container from the point of collection.

**Section 12. Abatement Notice.** Whenever a nuisance is found to exist within the corporate limits of the city and the enforcement officer elects to proceed by abatement, the enforcement officer shall give written notice, by a type of mail that requires a signed receipt, to the occupant of the property upon which the nuisance exists or upon the person causing or maintaining the nuisance. If the occupant is not the owner of the property, the same notice shall be sent, by a type of mail that requires a signed receipt, to the owner.

**Section 13. Abatement.** Upon receipt of the notice that a nuisance exists, the responsible party shall have seven days to abate the nuisance.

**Section 14. Notice Requirements.** The notice to abate a nuisance shall contain the following:

- A. An order to abate the nuisance within seven days;
- B. The location of the nuisance, if the same is stationary;
- C. A description of what constitutes the nuisance;
- D. A statement that if the nuisance is not abated within the prescribed time, the city will abate such nuisance and assess the cost thereof against the property.
- E. A statement that a person who is dissatisfied with the abatement notice has the right to judicial review under this Ordinance.

**Section 15. Request for Judicial Review.** An responsible party may object to the action intended by the city by filing a written request for judicial review in the Woodburn Municipal Court within five days of the date that the notice to abate was mailed.



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**Section 16. Requirements for Request.** The request for judicial review need not be in any particular form, but should substantially comply with the following requirements:

- A. Be in writing;
- B. Identify the place and nature of the alleged nuisance;
- C. Specify the name and address of the person seeking judicial review;
- D. Identify the enforcement officer alleging that a nuisance exists.

A copy of the notice shall be served on the enforcement officer

**Section 17. Scheduling of Judicial Review.**

A. The judicial review hearing shall be held within ten (10) days after the request for judicial review is made. The day may be postponed by:

- 1. Agreement of the parties; or
  - 2. Order of the court for good cause.
- B. The court shall promptly notify:
- 1. The person requesting the review; and
  - 2. The enforcement officer.

**Section 18. Judicial Review Hearing.** At the judicial review hearing the city and any interested parties shall have the right to present evidence and witnesses and to be represented by legal counsel at their own expense. After due consideration of pertinent information and testimony, the court shall make its finding. The findings shall be based on substantial evidence relative to the criteria outlined in this Ordinance and shall be final.

**Section 19. Notification of Violation.** The responsible party shall be notified by a type of mail that requires a signed receipt postmarked no later than five days after the findings are entered by the court by personal delivery by a representative of the city. Upon notification of violation, the responsible party will have seven days to abate the nuisance.

**Section 20. Abatement by City.** Upon the failure of the responsible party to abate the nuisance pursuant to the provisions of this Ordinance, the enforcement officer shall proceed to abate such nuisance.

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**Section 21. Abatement by City: Expenses.** The enforcement officer shall keep an accurate record of the expenses incurred by the city in physically abating the nuisance which shall include an additional administrative fee in the amount provided by the current Master Fee Schedule of the city.

**Section 22. Assessment of Costs.**

A. The enforcement officer, by certified or registered mail, postage prepaid, shall forward to the responsible party a notice stating:

1. The total cost of abatement, including the administrative overhead;

2. That the cost as indicated will be assessed to and become a lien against the property unless paid within 30 days from the date of the notice.

B. Upon the expiration of 10 days after the date of the notice, the court, in the regular course of business, shall hear and determine the objections to the costs assessed.

C. If the costs of the abatement are not paid within 30 days from the date of the notice, an assessment of the costs, as stated or as determined by the court, shall be made and shall thereupon be entered in the docket of city liens; and, upon such entry being made, shall constitute a lien upon the property from which the nuisance was removed or abated.

D. The lien shall be enforced in the same manner as liens for street improvements are enforced and shall bear interest at the legal rate. The interest shall commence to run from the date of the entry of the lien in the lien docket.

E. An error in the name of the person responsible shall not void the assessment, nor will a failure to receive the notice of the proposed assessment render the assessment void; but it shall remain a valid lien against the property.

**Section 23. Summary Abatement.** In addition to the abatement procedure provided by this Ordinance, the city may, in accordance with the law, proceed summarily to abate a health or other nuisance which unmistakably exists and which imminently endangers the environment, human life, health or property.

**Section 24. Notice.** Any notice required in this Ordinance shall be sufficient if the person to be notified is substantially apprised of the substance of the notice, notwithstanding any minor deficiencies or irregularities of form. Actual receipt of the notice is not required, as long as a good faith effort is made to deliver it.

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**Section 25. Enforcement.**

A. Inspection and Right of Entry. When necessary to investigate a suspected violation of this Ordinance, the enforcement officer may enter on any site or into any structure open to the public for the purpose of investigation, provided entry is done in accordance with law. Absent a search warrant, no site or structure that is closed to the public shall be entered without the consent of the owner or occupant.

B. Civil Infraction. In addition to, and not in lieu of any other enforcement mechanisms, a violation of any provision of this Ordinance constitutes a Class I Civil Infraction which shall be processed according to the procedures contained in the Woodburn Civil Infraction Ordinance.

C. Civil Proceeding Initiated by City Attorney. The City Attorney, after obtaining authorization from the City Council, may initiate a civil proceeding on behalf of the city to enforce the provisions of this Ordinance. This civil proceeding may include, but is not limited to, injunction, mandamus, abatement, or other appropriate proceedings to prevent, temporarily or permanently enjoin or abate any violations of this Ordinance.

**Section 26. Separate Offenses.** Each day during which a violation of this Ordinance continues shall constitute a separate offense for which a separate penalty may be imposed..

**Section 27. Effect of Abatement.** The abatement of a nuisance is not a penalty for violating this Ordinance, but is an additional remedy. The imposition of a penalty assessment does not relieve a person of the duty to abate the nuisance.

**Section 28. Severability.** The sections and subsections of this Ordinance are severable. The invalidity of any section or subsection shall not affect the validity of the remaining sections and subsections.

**Section 29. Repeal.** Ordinance 1616 and Ordinance 1822 are hereby repealed.

**Section 30. Saving Clause.** Notwithstanding the repeal of Ordinance 1616 and Ordinance 1822, Ordinance 1616 and Ordinance 1822 shall remain in force for the purpose of authorizing the prosecution of a person who violated Ordinance 1616 or Ordinance 1822 prior to the effective date of this Ordinance.

**Section 31.** [Emergency clause.]

*Passed by the Council June 9, 2003 and approved by the Mayor June 11, 2003.*